

REMARKS

This Amendment is being submitted in support of a Request For Continued Examination. Also filed herewith is a petition to extend the time for response from August 20, 2005 to October 20, 2005.

With entry of this amendment, claims 1-7 and 9-18 are pending in the application. Claims 1-5 and 7 have been withdrawn. Claims 6 and 9-17 were acted upon in the aforesaid Office Action.

Claims 6 and 9-17 stand rejected under 35 U.S.C. 103 as being unpatentable over Whelan in view of Mehdian and Clark.

Applicants respectfully request reconsideration of claims 6 and 9-17 in view of the foregoing amendments and the following arguments. Claim 6 has been amended to characterize the delivery device as one that releasably and simultaneously supports both loops of the flexible member and positions those loops in a bone tunnel. That concept is neither taught nor rendered obvious by Whelan, Mehdian or Clark. In this connection Applicant submits that the Examiner erred in his description of what Mehdian discloses. Mehdian does not disclose a system for attaching a ligament to a bone. Instead what Mehdian discloses is a system employing a frame and a tie member in the form of wire for securing spinal column segments to the frame. Hence the Mehdian invention is not relevant to Applicants' invention. Applicants further submit that one seeking to improve on the Whelan invention would not look to Mehdian for assistance. The invention of Clark is relevant but it does not make up for the deficiencies of Whelan. In any event Clark does not teach or suggest how to modify the Whelan systems to arrive at the system defined by claim 6.

For the foregoing reasons Applicants submit that claim 6 is drawn to a novel invention that is not disclosed or rendered obvious by Whelan, Mehdian and/or Clark. Accordingly, allowance of claim 6 is respectfully requested.

Claims 9-17 depend directly or ultimately from claim 6 and would appear to be allowable, at least through dependency. These claims also add limitations pertaining to specific novel and patentable features of Applicants' systems.

In summary, allowance of claims 6 and 9-17 appears to be in order.

New claim 18 is similar to claim 6 and should be allowed for the same reasons.

Prompt and favorable reconsideration is respectfully solicited.

**In the event that any additional fees may be required in this matter, please charge the same to Deposit Account No. 16-0221.**

Respectfully submitted,



Nicholas A. Pandiscio  
Registration No. 17,293  
470 Totten Pond Road  
Waltham, MA 02451-1914  
Tel. No.: (781) 290-0060

BAW/INNO29CON.AMB